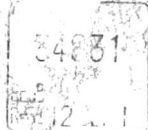


EAST AFR. PROT.

34831

34831



1415
Hfeld 7/10

1914

27 July

on previous Paper.

22/2/13

A. Barclay's claim

Sends copies of relevant documents as desired.

Mr. T. T. ...
W. Read.

I have reviewed the enclosures.

We are still without the content of W. Weston Wright's communication to Mr. Glass of Dec. 1907 (see 4518) but it is evident that the Govt. when the Song's claim was made, considered themselves bound to find land for Mr. Barclay.

See nos. 11, 12, 13, which show that in Dec. 09 & Jan. '10 Mr. Barclay was anxious to give up the original area of 6000 acres in equal amount in the same region. By way of a compromise, he was offered, instead of such part of the original area as was in dispute, twice as much land elsewhere; but the Land Office (Mr. ...)

made it clear that they would purchase it for ...

Mr. ... to ...

on subsequent Paper.

1066
14-5

rights.

Apparently this offer was not accepted,
for in May 1910 Mr Barclay's solicitor wrote no. 14
as action for specific performance. The
Suzuki claim was settled & the lease to Mr no. 16-20

Barclay was on the point of being granted
the Parents & Suzuki claim ^{to part of the land} [crossed]
up & the lease was held over.

In July 1910 (the apparently the threat
of action for specific performance was
still unanswered) he wrote Lord Beaumont no. 21

first letter - asking for an additional
area of 640 acres in compensation, with
also, for Mr Barclay's loss through
not being able to avail himself of the
rubber boom. This area (or 600 acres)
was granted, subject to ^x future rights.

x or possible
- See no. 22.

The Parents-Suzuki claims, ultimately
^{or settled} established, were still outstanding in January

no. 25

1911 & apparently so in March 1911, since
Lord Beaumont's second letter does not
refer to them. That letter represents that

no. 26

- (a) Mr Barclay was granted a further area
in consideration of the complete development of
the original area (this statement is doubtfully
accurate in view of the above).
- (b) this additional land was without other and
other claims to it
- (c) the original land was "unsuitable
unsuitable for rubber production" & would
be better abandoned.
- (d) Mr Barclay did not wish to abandon it
& would be content with decent land - in
substitution for the additional area - to the

same district. This was allowed by Sir P. Grouard
"in view of the genuine attempts at
development", but the grant was found to be
"impossible owing to other claims. Finally the
whole matter was postponed until the new
method of dealing with land (it proved to
be auction) was settled. This postponement
applied equally to a final application
made by Mr Barclay for 10000 acres in the
highlands.

The date of Sir P. Grouard's offer of
land in the highlands - refused by Lord
Crawworth - is not definitely stated, but
apparently it was not later than July 1910,
since Lord Crawworth puts the grant of the
first extension at a subsequent date. It
appears that in making the offer Sir
P. G. clearly stated that he could not
guarantee any coast title.

Lord Crawworth's letter (no. 44 - printed
in 39008/13) makes certain claims on
behalf of Mr Barclay: -

- (1) He bought the land with a title from
Govt. This must be accepted
as true in fact if not in form.
Clearly Col. Montgomerie & the Secy for
Native Affairs thought so on the
Commission in No. 13 could not have

been offered. It is a pity we have not
got the Glass-Bowling indenture
- but doubt the Earl has got two copies now.

(2) He spent many thousands on development.
Admitted, but how much did he
spend on the area which he lost?
Not all of it, since "every single
acre" was developed.

(3) He lost the whole of his time & money
through no fault of his own. He lost
most of it because the land was
useless.

(4) He might have made a big profit
(out of the rubber boom) if he had had
a good title. Considering that the land
was better abandoned, we need not
attach much importance to this.

On the other hand, the Earl

(1) offered him ^{him} ~~him~~ as much land
as he was likely to lose. The offer was
refused or ignored.

(2) offered Lord Cromwell, acting for
him, an area in the highlands, but
C. refused.

(3) granted him as a special case
land elsewhere in the country, but
this fell through owing to ^{some} fresh claims.

It is difficult to know what ^{more} the Earl

could have done after the original
rather unguarded but not disingenuous
statement to Glass.

178

It has to be borne in mind that the
compensation which existed as to Coast titles
must have involved loss to many people
& that a decision in Mr. Barclay's favour
may lead to a great many other cases of
the kind. We cannot therefore afford
to stretch points.

If however he still has a good claim
he must have compensation - not I
imagine in respect of the conjectural
profit which he might have made by
selling this unexplored land not to the money
made in that part of it not successfully
claimed by others. He could be invited
to show (I would only approximately)
how much he spent on the lost area,
and this sum (say £2000) could be made
good to him partly as a set-off against
the premium (say £250) which he will
have to pay for any estate he may acquire
at auction, & partly as a cash payment
when he has completed the necessary
development (say £900 worth) of
that estate. [My figures are
quite

quite hypothetical but may serve
as a rough guide]

In view of the efforts which the
Govt made to assist him I do not think
there is any occasion to compensate
him unless he takes up another area.

LCB 179.4

This discloses one new piece
of evidence of considerable
importance

on June 1st 1907. (Encl. 5) The
L.C. wrote to the Prov. Comr.

"I have the honour to
request that the land
between miles 9 & 10 may
be given to Mr. Glas."

From the Comr. of Lands minute
of the 4th of July it appears that a
copy of this letter was sent to
Mr. Glas & that he went into
occupation on the strength of

A. The letter must therefore
be taken as the answer
to his application of Nov. 2nd 1907.
(Encl. 1), & the two documents
together seem to me to come
very near a binding contract

It should
noted also
that the
land all
seems to
have been
in "Crown
under the
order of

Especially when one remembers that Mr. Barclay, in full recognition of success, has spent a considerable amount of money on the land, into occupation of which the Govt allowed him to enter.

Mr. Barclay also seems to have taken this view of the Govt originally for when in 1909 Sir W. de Souza Dias made their claim to part of his land, he (Encl. 4) threatened the Govt with an action for specific performance. The de Souza

claim fell through (Encl. 16) ~~to be followed~~ } the Dhruva claim (Encl. 19) in June 1910 & on July 3rd Ld. Grantham on Mr. Barclay's behalf applied for a further grant of 650 a in pursuance of what he asserted to be a recognized principle (in Encl. 20) that when complete development is accomplished, the holder is

entitled to a further grant, if there is any available land. This application was accepted in principle (En. 22) & apparently the survey for paid (Encl. 23).

At the end of the year Mrs. Parson's apparently began to press his claim (Encl. 25), & this claim proved successful in respect of 100 acres part of Mr. Barclay's grant, sometime early in '91. None the less, neither 2d Countess nor Mr. Barclay made any claim against the Fort in respect of this lost 100 acres, but continued to press for the additional grant in consequence of the complete development of the original Kapiwani estate. Ld. C's letter of 20/1/1811 (Encl. 26) shows I think the reason for this. Ld. C. had now realized

that the Kapiwani grant was not suitable for their purpose, & they were therefore prepared to buy the 100 acres out of consideration, if they could get the new grant, for which they were already negotiating with the Fort. This policy they continued up to date, putting their claim for ~~the~~ the most part rather on the ground of their own merits in having developed the estate than on that of the Fort's default.

This attitude might prejudicially affect any attempt of Mr. Barclay's to enforce his legal rights against the Crown now, but it seems to me none the less that he has a claim in respect of the 100 acres which he lost, that is probably legally sound, & although it has some moral weight, I realize that he was actually offered an area of land

adjoining his ^{his} Wisconsin estate
that he refused it,
but there seem to have
been grounds for his refusal
in the existence of rival
claimants. (See Encl 26)
at the same time the forest
did on Jan. 20, 1910 (Encl. 12)
whether the de Souza claim
was being proved, after Mr.
B. 2 acres for every acre
he had to surrender, I
think we might fairly make
an exception to this extent
in Mr. B's favour now.
I would not support any com-
pensation for the money etc.
it is said Mr. B spent on
the lost 100 acres, the
additional 100 acres to be
given him (if this suggestion
is accepted) would cover that.
The new 200 acres should be
as near the old estate as
possible, & as suitable as
possible for the purposes for
which it is desired. Any offer

made should be accompanied
by a formal statement
to which we do not admit
that Mr. B has any right
to compensation. 181

C. 21 9. 14

W. J. R. for answer & pass this

Mr. Ferguson

at once.

W. J. R.

26/9/14

24831

2985

EAST AFRICA PROTECTORATE.

No. 720

GOVERNMENT HOUSE, 182
NAIROBI,
BRITISH EAST AFRICA.

July 31st 1914.



Sir,

Mr 22643

In compliance with the instructions contained in your telegram of the 7th instant, I have the honour to transmit herewith complete copies of all relevant documents relating to Mr. H. G. Barclay's claim for compensation for loss of land at Kipingoni.

etc
I have the honour to be,

Sir,

Your humble, obedient servant,

Conway B. Reid
H. Conway B. Reid

GOVERNOR.

THE RIGHT HONOURABLE
LEWIS HARCOURT, P.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON, S. W.

22643
not printed

missions

4831

183

Gen 34831 Sat



2989

Ans'd 1066

DRAFT.

Est Conf

Gen Sir of Belfield

At
14th Oct 47

Sir,

MINUTE.

- Mr. ~~Jerry~~ 10/10/14
- Mr. ~~Watt~~ 10/10/14
- Sir G. Fiddes 10/10/14
- Sir H. Just.
- Sir J. Anderson.
- Lord Emmott.
- Mr. Harcourt.

in common

Have the honor to ack. the receipt
conf. Dir. No 100 of the 26th of many heads of you
of your Dir. No 720 of the 31st of July

~~concerning~~ ~~of~~ ~~relevant~~
~~to~~ ~~concern~~: relating to Mr. H. G.
Barclay's claim for compensation
for loss of land at Ripington.

2. I find among ^{the} ~~transmitted~~ ~~in~~ your Dir. of the 30th of July
papers ^{one} ~~one~~ piece of evidence
which seems to me of
considerable importance, viz
the letter from our Lands Office
dated the 7th of June 1807 to
the Provincial Commissioners,
Marbosa, requesting that
the land between miles 9
& 10 should be given to
Mr. Glegg. It appears from

(Sigs)

At No 22643
+ No 34831

from the minutes of the Commission
of Lands dated the 22nd of April
1907 that a copy of that letter
was sent to Mr. Glegg & that on
the strength of that letter this
gentleman went into occupation
of the land referred to. The
letter must, therefore, be taken
as the answer to his
application of the 2nd of April
1907, & it appears to me that
the two documents
should well be held
together ~~and~~ ^{abstract}
to constitute ~~an~~ ^a binding contract;
especially when it is remembered
that Mr. Barclay, the recognised
successor of Mr. Glegg, has spent
a considerable amount of money
on the land, into occupation of
which he ~~is~~ ^{is} allowed him to
enter. Mr. Barclay also seems
to have taken this view of the
correspondence originally; for,
when in 1909 & 1910 part of his

(Encl. 1)

his land was claimed by Mr. de
Sanga & Mr. Dias, he
threatened the Govt. with an
action for specific performance.
The claim made by Mr. de
Sanga fell through, but there
followed the claim by Mr.
Mahomed Shung, in June
1910. On the 3rd of July 1910
Mr. Cranworth, on behalf of
Mr. Barclay, applied for a
further grant of 640 acres
in pursuance of what he
expected to be a recognised
principle, ^{viz.} that when complete
development is accomplished,
the holder is entitled to a
further grant, if there is any
available land. This
application was accepted in
principle, & apparently
the survey fees were paid.
At the end of the year, ^{however} Mr.
Parente began to press a claim
for

(Encl. 14)

(Encl. 16)

(Encl. 19)

(Encl. 21)

(Encl. 22)

(Encl. 23)

(Encl. 25)

for part of Mr. Barclay's land,
+ this claim proved successful
in respect of 100 acres. ~~And~~

~~the land granted to Mr. Barclay.~~
Nevertheless, neither Lord

Cranworth nor Mr. Barclay
made any claim against the
Govt in respect of this area
of 100 acres, but continued

to prep for the additional
grant mentioned above in
conson of the complete
development of the original

Hippingom estate. ^{she}
Reason for their action ^{appears}

~~is~~ clear from ~~and~~

Cranworth's letter of the 30th of
March 1911, ^(to have been that)
by this time ^{they had}

^{begun to} ^{make a} ^{map}
of the Hippingom ^{land or} ^{grant} was

not suitable for their purposes,
^{that} they were therefore prepared

to take out of conson the
lots of 100 acres successfully
cleared by Mr. Parson, ~~and~~
if they could secure the 185
new grant for which they
were already negotiating
with the Govt. They have
adhered to this line of
policy ever since, basing
their claim for the most
part on the ground of their
own merit in having
~~developed~~ developed the
estate rather than on the
ground of the default of
the Govt.

^{which has been}
3. The attitude ^{taken}
up by Lord Cranworth & Mr.
Barclay might affect
prejudicially any attempt
on

DRAFT.

MINUTE.

Mr.

Mr.

Sir G. Fiddes.

Sir H. Just.

Sir J. Anderson.

Lord Emmott.

Mr. Harcourt.

on the part of the letter to
enforce his legal rights
~~against~~ against the Govt;
but, as at present
advised, I consider
that he has now the
left a claim in respect
of the area of 100 acres
~~which he lost, that is~~

^{which is}
probably sound from a
legal point of view, +
which, in any event,
has some moral weight
I do not forget ~~the fact~~
that he was actually
offered an area of land
adjoining his Kepingan
estate + that he refused
this offer, but there wd
appear to have been some

(Incl. 26)

(Incl. 13)

grounds for his refusal
in that there were rival
claimants to the land
offered. ^{The fact remains} ~~that~~
that on the 28th of January
1910 the Govt did offer
Mr. Barclay, when Mr.
de Souza's claim was
being pressed, two acres
for every acre which he
had to surrender; and I
am disposed to think that
it would be fair to make
an exception to this extent
in Mr. Barclay's favour now.

the new area of
200 acres ^(being)
selected as near
to the original
estate as practicable
+ as suitable
for the purposes for
wh. Mr. Barclay desires
it as circumstances
allow.

I would not suggest that
^{further} any compensation shd
be given to Mr. Barclay for
the money which it is said
that he had surrendered on
the 100 ~~acres~~ acres
surrendered by him, as

the additional 100 acres which
would be granted to him ~~if~~
~~action is taken on the lines~~
~~indicated in this paragraph,~~
might properly be held to cover
that lot. ~~W. Barclay~~

4. I should be glad if
you would re-consider the
matter in the light of
this dispatch, & inform
me whether you would be
prepared to waive your
objection to making some
concession to Mr. Barclay
on these lines.

5. I should add that
in the event of any offer
being made to Mr. Barclay,

~~it~~
it ought in my opinion to be
accompanied by a formal
statement to the effect that
the Govt. does not admit that he
has any right to compensation.

Hotel Stanley.
Nairobi.
2nd April, 1907.

To the Land Officer.

Nairobi.

Sir,

I beg to apply for a Homestead of 640 acres adjoining the ground applied for by my son C.G.T. Glass, extending from the Railway, South, to the Sea and enclose herewith cheque for £.185 survey fees for same.

I have the honour to be,

Sir,

Your obedient servant,

signed. C. G. Glass.

1873.

Land Department.

10/11th April 07.

Sir,

Mr. C. G. Glass' application 840 acres
near mile 9, Uganda Railway.

With reference to your letter of the
2nd inst, in which you apply for 840 acres of land
near mile 9 Uganda Railway, I beg to inform you
that the area has already been applied for.

In accordance with the request made by
you in this Office your application will be kept
pending, and if the previous application falls
through, or the position is altered, your appli-
cation will be considered.

I am, Sir,

Your obedient servant,

sd/- R. B. Wright.

Land Officer.

To:-

C. G. Glass Esq.,

Hotel Stanley.

Nairobi.

Hotel Stanley.

Nairobi.

15th April, 1907.

R. B. Wright Esq.,

Land Officer.

Nairobi.

Sir,

With reference to our conversation this morning informing me the land applied for on the 2nd inst, would be allotted provided there was no local objection. I now beg to request that my letter may be taken as an application for 640 acres on 99 years lease.

I am, Sir,

Your obedient servant,

signed. J G Glass.

No. 2188.

Land Office.

Nairobi.

31st May, 1907.

Sir,

I have the honour to inform you that the Commissioner of Lands would be obliged if you could arrange that the two plots, each approximately 640 acres, be marked off on the Southern side of the Railway between miles 9 and 12. One of these plots should be reserved for Mrs Amy Cox, who is represented by Mr. Fawcus, and occupation of the other granted to Mr. Glass. I have heard unofficially that Mrs Cox wishes to have the ground between miles 9 and 10, and further that she has a representative there on the ground.

As Mrs Cox has the right of first choice, her wishes should be met and Mr. Glass is aware of this.

I have the honour to be, &c.

Ed. W. Sanderfield.
for Land Officer.

The Provincial Commissioner.,

Mombasa.

Land Office.

Nairobi.

1st June, 1907.

Sir,

In continuation of my letter of the 31st ultimo, I have now been given to understand that Mrs Cox has no representative between miles 9 and 10. This being the case, as Mrs Cox's representative has not complied with my request for an answer to my letter I have the honour to request that the land between miles 9 and 10 may be given to Mr. Glass and the land between 10 and 11 reserved for Mrs. Cox.

I have the honour to be &c

signed. W. Scholfield.

for Land Officer.

The Provincial Commissioner,

Mombasa.

A copy of this letter sent to Mr. Glass - see file 6973

1. Case of Mr. C. G. Glass, near Mazeras.

On the 22nd April I visited the land on which Mr. Glass has a house and some cultivation.

From the files shown me in the Land Office it appeared that Mr. Glass occupied without permission; and on this supposition I gave Mr. Clark (District Surveyor) instructions to survey a 640 acre farm with its Eastern side, a line running down to the Sea from mile 9.5.

Today Mr. Tonks has shown me a letter from the Land Officer to the Provincial Commissioner dated 1st June 1907, definitely stating that Mr. Glass should be given the land between miles 9 & 10. A copy of this was sent to Mr. Glass, and he says he entered into occupation accordingly on the land pointed out to him by the Assistant District Commissioner.

My directions to Mr. Clark must accordingly be modified.

The Eastern boundary must begin at mile 9.5 and the Railway frontage must be carried to half way between that point and mile 11. That being the frontage, the farms should be marked off to the South so as to make 640 acres avoiding land which is disputed, and claimed by other persons.

I understand that Mr. Glass wishes to leave the Country and to sell his rights. No objection will be made to this.

signed. J. Montgomerie.
Commissioner of Lands.

24 12 08

8028. JW/L.

Land Department.

Nairobi.

28th November, 1906.

Sir,

Re: Transfer of Mr. G. G. Glass' 640
acres Changeable to Self.

I have to request you to inform me
if sanction to the above transfer was asked for, as
there is no record in the Land Office of formal
sanction being given.

I am, Sir,

Your obedient servant.

signed. C. H. Campbell.

Acting Land Officer.

G. Tonks Esq.,

Solicitor,

Mombasa.

Mombasa.

194

30th November, 1908.

Sir,

Re: Transfer of Mr. 'Glass' shamba
at Changanwe.

I have the honour to be in receipt of
your letter of the 26th inst, and numbered 8028.
J.W./L.

The actual transferee of this property
at Miritini Station is Mr. Hugh Barclay.

Sanction was asked for by Mr. Glass
when it became necessary for him to transfer his
shamba. I have no copy of any application; but
that an application was made is clear from a letter
dated the 13th December 1907 and signed by R. B.
Wright Esq. In this letter Mr. Wright said:-
"(as) you have nothing in the way of deeds", it
"is impossible to give transfer. I am perfectly
"willing to recommend that you be allowed to sell
"your rights to the land to another, and that the
title be made out in the name of the person so
"nominated...."

Mr. Glass has now in fact transferred
his rights to Mr. Hugh Barclay Norwich, England,
and the estate is being rapidly developed.

I am enclosing the Indenture by which
Mr. Glass transferred his interests to Mr. Barclay.

I understand that the boundaries have
now been definitely fixed, and I ask that the title
deeds to this shamba be made out in favour of Mr.
Barclay as described in the enclosed Indenture

P.T.O'

I shall be pleased to give you any further information should you desire it.

I have the honour to be,

Sir,

Yours obediently.

sd.

Osmund Tonks.

The Acting Land Officer.,

Nairobi.

Nairobi.

319/4.

October 2nd. 1909.

Sir,

Mr. Barclay Kipinchi Estate.

In re conversation our Mr. Grant had with you yesterday. The Manager of the above estate reports that further clearing has been stopped by the action of Messrs ^{Souza} Souza Junior & Dias who claim title to a portion of the land granted to our client and in respect of which the title deeds are in preparation. Messrs Souza Junior have encroached within the boundaries put up by the Survey Department, have stopped our men working and have driven the Natives off the land. These Natives have by arrangement been allowed to remain by us and naturally blame us for the action of Messrs Souza Junior. The latest complaint is that Messrs Souza Junior's agents came on the land with guns and frightened the men away. We enclose herewith a blue print showing the position also copy ~~of~~ correspondence between our Mombasa office and ^{Mombasa and} District Surveyor. Please preserve this plan as we have not got another at present.

We would ask you to take immediate action for our protection as it is of the utmost importance that we should be able to proceed with the clearing at once. Our client is also anxious to get his title deed.

Yours obediently.

sd/- Tonks & Grant.

Conveyancer.
Land Office.

The Hon'ble Commissioner of Lands.

Interviewed Mr. Grant on behalf of Mr. Barclay and Lord Cranworth on the subject of the Miritini shambas, and threatened action by de Souza and Parenti. He asks that if possible the suggestion that a further distance grant of 640 acres either up or down the line be immediately considered, if this can be granted he is perfectly satisfied to waive all present claims to any land which litigation may prove shall belong to de Souza or Parenti, the only land I can suggest if this compromise may be entertained is Forest land adjoining Glass. If this minute is not clear I can if you call me explain in detail.

signed. R. B. Wright.

23.12.09.

721/3.

Nairobi.

193

24th December, 1909.

Sir,

In re: Mr. H Barclay . Lord Cranworth's
Land . formerly Glass. Miritini.

We have the honour to confirm the inter-
view our Mr. Grant had with you yesterday in re-
the above.

Without prejudice our clients suggest
that if the Government will be prepared to grant
to them a further 640 acres of similar suitable
land on the Railway within the Mazeras District
without delay; they will be prepared to abandon
the area granted them by Government and now claimed
by Souza Junior & Dias and Parenti, and forego any
claim against the Government in respect of the same.

The area our clients suggest might be
granted is Government Forest Reserve lying to the
South of the line and running with the boundaries
of Mrs Cox's land. On receipt of a wire our clients
manager Mr. Thomson is prepared to proceed at once
and view any land it is proposed to offer.

The pending litigation cannot be settled
for at least three months and if the losers appeal
to Zanzibar for another six months.

We need hardly point out that every days
delay means further damage as our staff are sitting
idle and one seasons tapping must certainly be lost
unless planting can be done by the big rains. In
addition should the Government fail in upholding
their title as against the claimants our clients
damage must be very heavy as the cost of management

management of a 400 acre plantation is practically the same as double that area. Please treat this as very urgent as our clients proposition is made to save delay.

Your obediently,

signed. Tonks and Grant.

The Land Officer.,
Nairobi.

NOTE.

The Honourable Secretary of Native Affairs.
Mombasa.

We are in a position of some difficulty on the Coast owing to Souza Junior & Dias, as well as Parents, claiming some of the land which we have allotted to Glass at Kipingoni.

This land was stated by the Civil Officers and yourself to be free from Native claims, after your negotiations with I think the Wadruma. I am open to correction in the name of the tribe.

Glass was given 640 acres and was allowed to sell to Barclay. Barclay has put a considerable sum of money into the estate and says he has already planted or cleared 400 acres. The River part, near Fort Reitz, is claimed and his work is stopped. His Solicitors, Tonks & Grant, say that if the Government wishes them to relinquish this River land, about 240 acres, they will do so if they can be given another 640 acres grant near by.

I have consulted the Honourable the Crown Advocate, who advises me that the only thing to do is to send the files to you and to ask you to be good enough to enquire into the case immediately you return to Mombasa, before you return to Nairobi. So I am doing so and shall be obliged if you will treat the matter as urgent. I will advise Mr. Monson that I am doing so and perhaps he will send you a wire.

We have to decide whether the claimants are

are likely to succeed in their case. If not, we can I suppose refuse to do anything, merely telling Tonks and Grant to fight and we will help.

If there is any doubt, we had better come to a compromise with Tonks and Grant.

signed. J. Montgomery.

Commissioner of Lands.

26. 12. 09.

1040/1042.

The Office of
The Commissioner of Lands.
Nairobi.
Jan. 28th 1910.

Gentlemen,

I am directed to reply to your letter of the 24th ultimo, regarding the land formerly granted to Mr. Glass, and now occupied by Mr. Barclay and Lord Cranworth.

In place of the proposal contained in your letter I am to make the following offer to your clients.

The area in your clients' property now the subject of claim will be ascertained, and on their surrendering that area to the Government they will be given, in lieu of it, other land, of twice the amount surrendered, in the nearest place where Crown Land is obtainable.

I am to say that every endeavour will be made to allot land entirely clear of Native Rights, but the Government must guard itself by stipulating that, should such rights be found to exist at some future date, the Government will not be held liable for compensation on that account.

I am, Gentlemen,

Your obedient servant,

sd/- J. Montgomerie.

Commissioner of Lands.

Messrs Tonks & Grant.,

Nairobi.

311/5.

Nairobi.

11th May, 1910.

Sir,

Kipingoni Estate. Mazaras.
R. Barclay 640 acres.

Referring to previous correspondence on the subject of the above estate and the failure by the Government to hand over title deeds for the above grant. Our client Mr. Hugh Barclay has now instructed us to give you formal notice that in the event of your failing to hand him a lease and conveyance of the 640 acres as agreed, he will be compelled to take an action for specific performance and damages in two months from the date hereof. The amount of damages can of course only be arrived at on the date of filing the action. Should you definitely refuse to complete our clients title.

Yours obediently.

signed. Tonks & Grant.

The Land Officer.,

Nairobi.

1942. EL/LL.

Land Department,
Nairobi.

14th July, 1919.

May

Sir,

Kipingoni Estate, Mazaras.
Mr. Barclay.

I have the honour to enclose for your information a copy of a further letter received from Mr. Barclay's Solicitors on this matter.

I should be glad to know if anything has been settled in the case, and if it will be possible to proceed with the title deeds.

I have the honour to be,

Sir,

Your obedient servant.

signed, H. B. Wright.

Land Officer.

The Honourable the Crown Advocate.,
Nairobi.

1149.

Crown Advocates's Office.

Nairobi.

18th. May, 1910.

205

Sir,

Kipingoni Estate.

With reference to your letter No. 1042 LL/LL of the 14th inst. I have the honour to inform you that the action taken by Souza Junior and Dias against Mr. Barclay and the Secretary of State for a declaration of title to a portion of the above estate has resulted in the Plaintiff's withdrawing all claims to such land.

I enclose a copy of the terms of settlement, the original of which is filed with the records of the suit in the High Court.

I understand that other persons have purchased other portions of the estate from Natives, but I have no reason to believe that they have acquired any better title than Souza Junior and Dias, and I do not anticipate that having regard to the result of the action taken by the latter that the Government will be troubled to contest any other action in relation to the estate.

I have the honour to be,

Sir,

Your obedient servant,

signed, R. M. Coombe.

Crown Advocate.

The Land Officer.

Nairobi.

Terms of Settlement.

The Plaintiff's withdraw all claims to the land in dispute in the action and to any right title or interest therein or to any trees crops or other things whatsoever thereon or therein, and undertake to forthwith vacate the said land and to repair, to the satisfaction of the Director of Surveys, or to pay the costs of the repair of, any boundary stones or boundary marks erected by the first Defendant or by the Government which have been destroyed or damaged by the Plaintiff's or their agents or servants.

The Plaintiffs to pay the costs of the first Defendant and the Court costs of the second Defendant.

The Plaintiffs to be at liberty to remove within one month from this date from the aforesaid land all cocconut or rubber trees planted by them or their agents or servants on their behalf.

DEVELOPMENT REPORT.

237

Class to

Occupier H. Barclay. Situation Kipingoni Estate,
Mazeras.

Area. 330 acres Leasehold.

312 acres freehold.

Inspection book No. 9 page 139. Date of inspection June 8th 1910.

R E P O R T.

Lease granted, just going through.

G. Thomson is resident manager.

Good house being erected of brick.

About 400 acres in rubber & cocconut @ 50 per acre

£. 3,200.

Ample for all purposes.

no action necessary.

signed. Arthur G. Tannahill.

Land Ranger, 19.6.10.

1208.

Crown Advocate's Office,

Nairobi.

17th June, 1910.

Sir,

I have the honour to send you a copy of a letter addressed to the Provincial Commissioner Mombasa, by Messrs Byron & Harrison on the subject of a claim by one Mohamed Umaji to a portion of the land which it is proposed to lease to Mr. Barclay, also a copy of a letter which I have addressed to Mr. Hinde on the subject.

Pending further information on the subject it would be advisable to postpone the completion of the lease.

I have the honour to be,

Sir,

Your obedient servant,

signed, R. M. Coombe.

Crown Advocate.

The Land Officer.,

Nairobi.

COPY.

Mombasa.

June 3rd, 1918.

Sir,

Referring to the conversation which our Mr. Byron had with the Acting Provincial Commissioner, Mr. Isaac a few days ago, regarding the Meritini properties of Mr. Mahomed Dhunji, our client requests us to write to you on the subject:-

Mr. Mahomed Dhunji is the owner by purchase of a considerable tract of land at Kimri and Maziudu. A portion of this land has we understand been leased or sold by the Government to Mr. Barclay who has entered thereon and commenced to deal with the land as if it were his own. We have already written to Mr. Thomson the Manager for Mr. Barclay on the subject and we now bring the matter formally to your notice so that should our client's claim to the land be hereafter upheld a minimum of loss may result to all concerned.

Our client does not wish to go to Court if it can be avoided, and should the Government be inclined to settle the matter, he is ready to meet them.

But seeing Mr. Barclay is preparing to expend money on this land, whatever is to be done should be done at once.

We are etc.,

sgd. Byron & Harrison.

The Provincial Commissioner.,

Mombasa.

Crown Advocate's Office.

210

Nairobi.

17th June, 1916.

Sir,

With reference to Messrs Byren & Harrison's letter of the 8rd inst. on the subject of a claim made by one Mohamed Dhunji to a portion of the land which the Government proposes to lease to Mr. Barclay, I have the honour to request that you will cause enquiry to be made into the title of the claimant, and to inform the Land Officer as to the result of such enquiry. I am sending the Land Officer a copy of this letter, and of Messrs Byren & Harrison's.

I have the honour to be,

Sir,

Your obedient servant,

sd/- H. M. Coombe,

Crown Advocate.

The Provincial Commissioner.,

Mombasa.

211
Nairobi.

British East Africa.

July 3rd, 1910.

Sir,

I have the honour to request, on behalf of Mr. H.G. Barclay., for a further grant of 640 acres in proximity to the land already held by him at Kipingeni in the neighbourhood of Meritini.

I understand that there is or will be some such land available, and I make application on the following grounds:-

(a) Mr. Barclay at present holds 640 acres of land or thereabouts. He has already under rubber over 400 acres. He would have had the whole area completed before now, but for the delay caused by the actions brought against him on account of insufficient title. The remaining 240 acres is practically all cleared and holed and the total area will be completed by the end of the next rains.

I have been given to understand, though I am not sure if this is a recognised principle, that when complete development is accomplished the holder is entitled to a further grant, if there be any available land.

I am, I believe, right in stating that Mr. Barclay will be the only land holder in the Protectorate who will have thoroughly developed his grant, and he is willing and anxious to proceed further.

P.T.O.

(b) Through no fault of his own Mr. Barclay was unable to complete his work as he would have done by this present date. He therefore lost the crop for one year on 240 acres, amounting to a very considerable sum. Again during the recent rubber boom, Mr. Barclay was desirous, to and wrote to me on that point, to sell his estate to a Company. His lack of title however was a bar to his so doing. Unadoubtedly, through again no fault of his own, Mr. Barclay was the loser of several thousand pounds.

I think therefore that it must be acknowledged that Mr. Barclay has a very strong claim, even if it be only a moral one, for compensation. He will I know consider this claim satisfied by a further grant of 240 acres.

It surely cannot be said that such claim is unreasonable.

I have the honour to remain,

Sir,

Yours faithfully,

signed. Cranworth.

Land Department, 213

Nairobi.

1st. October, 1910.

My Lord.

With reference to your letter of the 3rd of July last, asking for special treatment on behalf of Mr. Barclay, I would say that the case has been referred to His Excellency, who has ruled that he is willing in principle to allow further land, but only as an extension to the land already held. I am accordingly making the necessary enquiries from the District Commissioner as to whether the adjacent land, which on our maps appears as vacant, can in his opinion be alienated without interfering with native rights. In any case, should he be of this opinion, a clause will be inserted in the lease safeguarding Government in the event of unknown private claims arising subsequently.

I am, My Lord,

Your obedient servant,

signed. R. Wright.

Ag. Commissioner of Lands.

The Rt. Hon. Lord Cranworth,

Nairobi.

L.1805. W/L.

Land Department.

214

Nairobi.

9th November, 1910.

My Lord.

Re: H. G. Barclay application for
additional land near Miritini.

With reference to the above application,
I should be obliged if you would kindly forward the
necessary deposit fee of £.75/-, in order to regular-
ise the application.

I am, My Lord,

Your obedient servant,

signed, C. H. Campbell.

for Land Officer.

The Rt: Hon: Lord Cranworth,

Nairobi.

1042. R/B.

Land Department.

Nairobi.

19th Jan'y. 1911.

Sir,

Re: H.G. Barclay, Kipingoni Estate.

I have the honour to enquire whether this case has now been settled. If so, will you be good enough to give instructions for our office file herein (No.1042) to be returned.

I have the honour to be,

Sir,

Your obedient servant,

signed. C. H. Campbell.

For Land Officer.

The Honourable,
the Crown Advocate.
Nairobi.

No. 8/88.

Crown Advocate's office.

Nairobi.

26th January, 1911.

Sir,

With reference to your No. 1042 R/R. of 19th inst, I have the honour to inform you that Mr Parenti is now claiming a part of Mr. Barclay's Kipingoni estate and that the case will be heard next month. I have also got a notice that Mr. Mahomed Dhunji is claiming a portion of the same estate.

I expect I will have to go to Mombasa tomorrow week and will require your office file No. 1042. If you desire it in the meantime I will send it to you if you telephone up to me.

I have the honour to be,

Sir,

Your obedient servant.

Signed. H. A. Young.

Asst. Crown Advocate.

The Land Officer.,

Nairobi.

216
217
Nairobi.

British East Africa.

30th March, 1911.

Sir,

It will be in your recollection that Mr. H. G. Barclay, in consideration of the complete development of his Kipigoni Estate was granted a further area adjoining of some 600 acres, subject to Native title.

Having since made a personal inspection of the land in question, I find:

- (a) That it consists almost entirely of shale unsuitable for growing rubber.
- (b) That it is already marked out by rival claimants.

Under these circumstances it will be advisable for Mr. Barclay to give up all claim to the area in question.

I would wish therefore to point out on Mr. Barclay's behalf:

That the development of his original Kipigoni Estate was in the nature of an experiment. That experience coupled with an expert report has I fear proved that the estate in question is eminently unsuitable for rubber production, and that probably the cheapest plan would be its absolute abandonment.

That Mr. Barclay, who has never had a grant of land from the Government, has spent some £9,000 and completely developed his area.

Mr. Barclay however is not anxious to cut his losses but wishes to proceed with his work

work if only he can get in the proximity of Mipingoni some further area of land where there would be a reasonable chance of rubber succeeding.

I am of opinion that there is such an area on the opposite side of the line beginning from mile 11.8 Northward.

I venture to ask therefor for a grant to Mr. Barclay of an area near this locality.

In the event of its being impossible for the Government to give title at the present time, I would suggest the registering of Mr. Barclays application.

I beg to remain,

Yours faithfully,

signed Cranworth.

H. M's Commissioner for Lands.,

B. E. A.

The Secretary to the Administration.

With reference to the attached copy of letter from Lord Cranworth, asking that Mr. Barclay may be granted additional land in the proximity of the Kipingoni Estate, I would say that the reply, in the case of an ordinary application for this land, would be that owing to uncertainty of title in this direction, the application could not be considered, in addition to which fact we are not now registering applications for unsurveyed lands. Mr. Barclay was, however, as a special case with His Excellency's approval, allowed an extension to his original Kipingoni area. This he now explains has proved unsuitable for the purpose for which it was taken up, and makes the suggestion that if he abandons this land he may be granted the other area in exchange.

In respect of the uncertainty of title existing with regard to all land in this direction, I would suggest that it would be unsafe, pending investigation by the Recorder, to make any definite grant but possibly His Excellency may feel disposed to allow the privilege of registration for such an area in exchange for that he wishes to abandon, the actual grant being, as before mentioned, ~~subject~~ to investigation showing that alienation is possible.

signed. R. Wright.

Land Officer.

(133)

Y. B.

For orders.

sd/- W.J.M. 21.4.11.

L.O. to speak.

sd/- E.P.C.G. ^{2nd} 2.4.11.

I will allow.

sd/- E.P.C.G. 28.4.11.

Secretary.

noted.

sd/- R. W. 5.5.11.

A. L. C.

Let it be noted by Survey Department that this application (a) is to be noted on maps as land in exchange for land recently surveyed (b) to be relinquished, then make enquiries from Provincial Commissioner regarding possibility of alienation in respect of local objections, after enquiries are completed advise Lord Cranworth of result. At His Excellency's request I explained to Lord Cranworth, he had been allowed this concession in view of the genuine efforts at development made on the land already granted.

signed. R. W. 5.5.11.

Nairobi. B. E. A.

Novbr. 22nd, 1911.

The Land Officer,

Nairobi.

Sir,

I understand from the instructions left me by Lord Cranworth whose Power of Attorney I hold that there is in existence a promise of 1000 acres of Land to Mr. Hugh Barclay, somewhere in the vicinity of mile 11.2 and not far from Mr. Barclay's Kipingoni Rubber Estate near Mombasa.

I shall be much obliged if you will let me know how matters stand with regard to this promise, as the Manager of the Estate, Mr. Thomson is very anxious to know where the land is to be given.

I am, Sir,

Your obedient servant,

sd/- W. C. Hunter.

P. S.

I saw Mr. Dundas this morning about this matter and he asked me to write in about it.

1805. RW/L.

29th January, 1912

213

Sir,

With regard to Lord Cromworth's application on behalf of Mr. Barclay for substitution of land North of line as an extension in place of the land allotted South of the line as an extension which after allotment was found to be unsuitable, His Excellency approved of the principle of exchange provided always that suitable land free of claims could be found to the North. Enquiries have been made and it would appear, subject to certain reservations, that it is possible to grant, if not the total acreage desired, a very large proportion of it free from Native claims. An inspection of the map shews, however, a note to the effect, "Major Leggett applies" recorded, I have, as a result, studied the files concerned, and would state that Colonel Montgomerie allowed Major Leggett to record a claim for 1000 acres in Mazeras District in substitution for a possible claim on the Sabaki, which claim reads, should it be considered land on the Sabaki free from Native claims, could be allotted; Major Leggett applied here (at Mazeras), and the land would have been allotted had I not made strong protests and representations that this land had already been the subject of previous applications. It is true that these were later refused, but if the land had then been allotted to, Major Leggett, the people refused would have had a good deal to say on the subject. Major Leggett was accordingly informed that previous applications had been received and refused pending an enquiry re Native Rights, and

and that any area later found available would be surveyed into farms of suitable size and auctioned.

The question, therefore, arises, are we justified in giving to Lord Cranworth land here in exchange for land relinquished, after having told Major Leggett we cannot give him this area in exchange for the Sabaki area relinquished, as this land if allotted must be auctioned. It is always easy to be wise after the event, but it is a great pity that Major Leggett should have been allowed to substitute claims in Mazeras for those of Sabaki, as the rights of Mazeras were, at the time, almost as problematical as those on the Sabaki, and we were granting without any quid pro quo far more valuable claims.

If an allotment Board were asked to settle this case I have little doubt that the decision would be in favour of Barclay who has done much on the adjacent area, and who asks for the extension to the North after having tested the one to the South and found it valueless, but in view of the reply given to Major Leggett that this land must be the subject of auction, I feel some diffidence in recommending that Barclay should be given this area which has been refused to Leggett.

I would be glad of advice as to how to act.

I have the honour to be,

Sir,

Your obedient servant,

signed. R. B. Wright.

Land Officer.

The Secretary to the Administration.

Nairobi.

1805. G/HB.

215

13th, February, 1912.

Sir,

Re: Mr. H. Barclay - Land at Meritini.

I have the honour to acknowledge the receipt of your letter of the 22nd November herein, and in reply beg to inform you that His Excellency rules that this must wait the Secretary of State's decision as to the method of allotting land in future.

I am, Sir,

Your obedient servant,

signed. I. L. O. Gower.

for Land Officer.

W. C. Hunter Esq.,

Nairobi.

Sixth Avenue,

Nairobi.

March 14th 1913.

The Land Officer,
Nairobi.

Sir,

Re: Additional land to be granted to
Mr. Barclay at Mazaras.

In view of the fact that His Excellency has ruled that the land for which Lord Cranworth applied on behalf of Mr. Barclay and which, I understand, is the subject of a prior application by Major Leggett, cannot be allotted until the new method of land allotment has been decided upon, I desire to make on behalf of Mr. Barclay an application for another piece of property in the same District, provided it is understood that the application made by Lord Cranworth on behalf of Mr. Barclay is not withdrawn, unless the property for which I am now applying can be allotted to Mr. Barclay without delay. The farm for which I wish to make application is 1037 on Mazaras plan. If this farm is of too large an area to be allotted as a whole to Mr. Barclay, I am informed by his Manager that a dividing line in a North Easterly direction from the point where 1038 and 1039 meet on Mwechi river would leave a fair area of suitable land available in either half. In that case I would ask that Mr. Barclay be given the option of choosing whichever half which is found to be most suitable for his purpose, provided the area equals that to which he is entitled. I wish to make it perfectly clear that I am making this application because the

because the application made by Lord Cranworth appears to be hung up for an indefinite period, but I should like Lord Cranworth's application to stand if my present application can only be dealt with in a similar manner. Further, I should be glad if you will let me know on what terms the land would be given to Mr. Barclay.

I am, Sir,

Your obedient servant,

signed. W. C. Hunter.

1805. B/WT.

Land Department,
27th March, 1913.

Sir,

Re: Application for land Mazeras, No. 1089.

I am directed to acknowledge the receipt of your letter of the 14th inst.

The Land Officer regrets that he cannot consider your application, or vary the terms of this Office letter No. 1805 G/MS of the 13th ultimo.

I am, Sir,

Your obedient servant,

signed. L. M. Dundas.

for Land Officer.

W. C. Hunter Esq.,

Nairobi.

Sixth Avenue,

279

Nairobi.

August 20th 1912.

The Land Officer,

Sir,

Re: Mr. Barclay's Lipidoni Estate.

Mr. Barclay has written asking me, in view of the seeming impossibility to get the additional land at the coast which was promised him, to state on his behalf that he is prepared to accept in lieu of the land he was to get at the coast, 10,000 acres in the Highlands and requests that such an area should be earmarked for him at the next allotment.

I should be glad to know whether this application can be entertained.

I am, Sir,

Your obedient servant,

signed. W. C. Hunter.

1000 20/2

10th August, 1911

Sir,

Re Mr. Barolow's application for a grant of land.

I have received a letter from Mr. Barolow dated August 30th., a copy of which is enclosed herewith.

I would say that Mr. Barolow was allowed an extension to his Maferas farm which, however, he asked to be allowed to relinquish, finding the land to be of poor quality. He asked to be allowed in lieu thereof, other land in this District. His Excellency's ruling is to the effect that this might be allowed, but only as an extension to his Sir's grant.

A subsequent application was received, but, owing to a prior application covering the said extension, he was told that his application could not be considered for the moment, but was to await Colonial Office orders regarding the future method of allotment. He has since made a further application for vacant land in the Maferas District which, however, I refused owing to His Excellency's ruling that such land could only be given as an extension to his present farm.

It will now be seen that he asks for land or country in substitution. I take it that I am correct in informing him that, for the same reasons we were unable to grant him land elsewhere in the Maferas District, we are unable to consider this grant of country in substitution.

I have the honour to be Sir,

Signed S.B. Wright.

The Hon'ble Ag. Chief Secretary

Nairobi.

Sixth Avenue.

Nairobi.

Aug. 20th, 1918.

Sir,

re Mr. Barclay's Kipikindi Estate.

Mr. Barclay has written asking me, in view of the seeming impossibility to get the additional land at the coast which was promised him, to state on his behalf that he is prepared to accept in lieu of the land he was to get at the coast, 10,000 acres in the Highlands and requests that such an area should be ear-marked for him at the next allotment.

I should be glad to hear whether this application can be entertained.

I am, Sir, / etc..

Signed, W.C. Hunter.

The Land Officer.

Nairobi.

S
993

The Secretary,
Nairobi.

East. Afr. Inst.

The Sen. Land Officer,
Nairobi.

Re Mr. Barclay's application for 10,000 acres.
Ref. your letter No. 1248 of the 10th inst.

Your assumption in the last paragraph is
correct.

Yours faithfully,
W. J. Johnson,
For AG, Chief Secretary.

AG, L.S.

Inform accordingly

Int. S. U.
S. P. 1/1

1805. D/VF.

Land Department.

9th September, 1912.

293

Sir,

Re: Mr. Barclay's application for 10,000
acres.

I am directed to acknowledge the receipt of your letter of the 30th ultimo herein, the contents of which are duly noted.

The Honourable the Land Officer, after having placed your client's application before His Excellency, regrets he is unable to accede to his request.

I am, Sir,

Your obedient servant,

signed. L. M. Dundas.

For Land Officer.

C. Hunter Esq.,
Nairobi.

Sixth Avenue.

Nairobi.

234

21st January, 1913.

The Land Officer,

Sir,

Re: Mr. Barclay's Kipingoni Estate.

You will remember that a promise was given to Mr. Barclay, or to Lord Cranworth, of a grant of an additional area of land in the neighbourhood of Kipingoni Estate, which is about 10 miles from Mombasa.

I shall be glad to know whether this promise can now be carried out.

I am, Sir,

Your obedient servant,

signed, W. C. Hunter.

1305. D/WT.

Land Department.

235

27/28th January. 1913.

Sir,

Re: Mr. Barclay's application for 10,000 acres.

I have the honour to direct your attention to my letter No. L. 1305 of the 28th August last, in which the facts of the case were set forth.

2. You will observe that I was unable to accede to Mr. Hunter's request, on behalf of his client, in either granting him land up country, in substitution for land at Mazeras, or the vacant farm at Mazeras which he applied for. The reason, of course, being that the matter was to pend the final settlement with regard to the method of land allotment.

3. We now know that as a general policy auction will govern the disposal of Crown Lands, and I should, therefore, be glad to receive the orders of His Excellency as to whether Mr. Barclay's application may be considered as a special case or whether he must ^{be} like an ordinary applicant at public auction.

I have the honour to be,

Sir,

Your obedient servant,

signed. R.B. Wright.

Land Officer.

The Honourable the Chief Secretary.,

Nairobi.

1805. LL/LL.

Land Department.

6th February, 1913.

236

Sir,

Re: H.G. Barclay. Appn. for 10,000 acres.
Kipigoni.

With reference to your letter of the
21st ultimo, I have the honour to inform you that
the matter is now awaiting His Excellency's orders.

I am, Sir,

Your obedient servant,

sd/- A. C. Tannahill.

for Land Officer.

W. C. Hunter, Esq.,

Nairobi.

S. 203.

The Secretariat.

237

Nairobi.

February, 5th, 1912.

The Land Officer,

Nairobi.

Mr. Barclay's application.
Your No. L. 1605 of January 27th.
28th.

His Excellency cannot consider Mr.
Barclay's application as a special case.

sd/- W.J. Monson.

for Chief Secretary.

Note

Mr. H. E. Hunter does not
appear to have been formally
notified of H. E.'s ruling -
probably for the reason that
Lord Beaumont resumed the
conduct of the correspondence
in his letter of the 3rd Feb, 13

W.J.M.

27/14

Londiani Farm.

238

Feb'y. 3rd 1918.

Sir,

[See encl. 39508/17]

As the agent of Mr. Hugh Barclay of Colney, Norwich, I have the honour to bring to your notice the circumstances which appear to me to constitute a certain claim for an allotment of land.

It must however be thoroughly understood that both Mr. Barclay and myself are well aware that he has no legal claim for such allotment, though I venture to say that on moral grounds his claim appears fairly strong!

In about 1908 Mr. Barclay bought from Mr. Glass the estate of Ki'ingoni consisting of 640 acres held under a Government title, Mr. Barclay engaged a manager, erected houses, bridges, machinery, and completely covered the estate with Ceara rubber.

During the Rubber boom of 1908-10 Mr. Barclay could have sold the estate at a large profit and would have undoubtedly done so, but unfortunately the Government were forced to state that they were unable to substantiate their title. That they had grounds for their refusal was proved the following year when a Greek Mr. Parenti, brought an action against Mr. Barclay for an area comprising about 100 acres of his best land. The Government acknowledged their default by defending the action, but lost the suit.

Mr. Barclay was unwilling to sue the Government; but at his request I applied to H. E.

H.E. Sir Percy Girouard for a grant of land in compensation. H. E. pointed out that he was still unable to guarantee any coast title, and suggested the granting of an area in the Highlands. (I have however no documentary evidence of this, and in any case I refused the said offer).

Finally a certain area adjoining Kipingoni was offered; but inspection proved that the land was of poor quality and furthermore was claimed by a Greek, 2 Indians and an Arab. I accordingly applied for a further area across the line.

This was the condition of things when I left for England.

During my absence affairs at Kipingoni went very badly, and a careful inspection has convinced us that the only course to pursue is to close down the estate.

The failure may be attributed to (a) The fall in the price of rubber. (b) Shortage and dearthness of labour. (c) Loss of the only portion of the area containing decent soil.

In making a claim for an allotment in the Highlands, on Mr. Barclay's behalf, I would lay special stress on the following points:-

- (1) That Mr. Barclay bought the land with a title from Government, and on that title had undoubtedly good grounds for action.
- (b) That Mr. Barclay spent many thousands of pounds in development and that Kipingoni formed the only estate in the Country of which every single acre was completely developed.
- (c) That the whole of Mr. Barclay's time and money was lost through no fault or neglect of his own.

(d) That this large loss might have been and in all probability would have been turned into a large profit had Mr. Barclay been able to show a good title.

I have the Honour to remain,
Yours faithfully.

sd/- Cranworth.

The Land Officer.,
Nairobi.

1805. L/5.

Land Department.

211

28/27th Feb, 1913.

SIR,

In re: M. G. Barclay. Application for
10,000 acres. Kibungoni.

I have the honour to forward herewith a copy of a petition dated the 2nd inst from Lord Cranworth herein, and would say that, as far as my knowledge goes, the facts as cited in the letter are correct.

I should be glad to be favoured with His Excellency's instructions on the case, and to know if in his opinion grants should be made in this and similar cases.

A slight in-accuracy occurs in the letter. The Chevalier A. Parenti, an Italian, would probably not be pleased if described as a Greek.

I would add that I am aware that, under your No. S.983 of the 6th inst, I was advised that His Excellency could not consider this application as a special case; but in view of Lord Cranworth's further petition, I feel I ought to submit the matter for favour of reconsideration.

I have the honour to be,

Sir,

Your obedient servant,

sd/- R. E. Wright.

Land Officer.

The Honourable the Chief Secretary..

Nairobi.

3.993.

The Secretariat. 212

Nairobi.

April, 14th, 1913.

The Land Officer,

Nairobi.

Mr. H. Barclay.

re his land at Meritini.

Your No. 1895 of April 9th.

The following minute by His Excellency is forwarded for your information-

I have considered this case very carefully and am unable to find grounds that would warrant me in according special treatment to Mr. Barclay.

2. Government cannot be held responsible for his selection which appears to have been for the most part unsuitable for his purpose, and I observe that there is nothing to indicate that he took any step to have the title verified before he concluded the purchase.

3. The possibility of what he might have made out of the estate during the rubber boom is a contingency far too remote to be accepted as bearing upon the question.

4. If he had a legal claim against the Government, he elected to waive it, presumably because he considered that he was consulting his own interests by so doing. There is therefore not a point which can be now put forward in his favour.

5. He was offered an area on the Highlands, but his representative refused it.

6. He was offered an alternative area on the coast, and that he declined also.

7. The facts as above summarised are therefore not such as would justify me in making a special allotment in his favour*.

sd/- T. S. Thomas.

for Chief Secretary.

1805 U/U.

Land Department. 24

22nd April, 1913.

My Lord.

In re: H.G. Barclay. Application
for 10,000 acres. Kipingoni.

With reference to your letter of the 2nd February last herein, I have the honour to inform you that His Excellency has very carefully considered this case and is unable to find grounds that would warrant him in according special treatment to Mr. Barclay.

I am, My Lord.

Your obedient servant,

sd/- R.B. Wright.

Land Officer.

The Right Hon: Lord Cranworth.,

Nairobi.

Sixth Avenue.

Nairobi.

24th April, 1918.

The Land Officer,

Sir,

Re: H. G. Barclay's application 1000 ac
Kitengoni.

I am in receipt of your letter No. 11505
of the 22nd April last, the contents of which I
note. I presume Mr. Barclay's application for
land near Kitengoni still holds good and shall be
glad if you will confirm this.

I am, Sir,

Your obedient servant.

sd/- W. C. Hunter.

205 L/A

Land Department.

26

8th May, 1913.

Sir,

Re: H.C. Barclay application for 10,000
acres Kipingozi.

In reply to your letter of the 24th ulto
herein, I would say that His Excellency, Sir Percy
Circuard' ruling was to the effect that further land
was only to be allowed as extension to his present
land. When he applied for other land in the neigh-
bourhood, it will be remembered he was told the
question must await Colonial Office orders governing
further method of allotment. It was then thought
possible that this would be governed by an allot-
ment Board. As you are, ~~XXXXX~~ however, now aware,
it has been decided to allot further land by auction,
and, under these circumstances, I regret I am unable
to register your client's claims for further land
elsewhere in substitution for land offered in a
particular position only.

I am, Sir,

Your obedient servant,

sd/- R.B. Wright.

Land Officer.

W. C. Hunter Esq.,

Nairobi.

Sixth Avenue.

Nairobi.

13th May, 1918.

The Land Officer,

Sir:

H. G. Barclay's application for Land
near Kipingoni.

I am in receipt of your letter No. 1805
L/Q of the 6th May last.

My letter of the 24th ultimo appears to
have been misunderstood. I presume that you are
still prepared to grant to Mr. Barclay land near
or adjoining to his present land in accordance with
His Excellency's (Sir Percy Girouard's) ruling.

I shall be glad to hear from you that
this is the case.

I am, Sir,

Your obedient servant,

sd/- W. C. Hunter.

1806 K/K.

Land Department.

248

27th May, 1913.

Sir,

Re: Application for land near Kippingoni.
H.G. Barclay.

With reference to your letter of the 13th inst, I beg to inform you that I have placed the case before His Excellency the Governor, who instructs me to say that he is not prepared to consider your application for further land in this neighbourhood.

You were allowed a selection which you relinquished, and your further application, it will be remembered, was covered by a previous application'

I am, Sir,

Your obedient servant,

sd/- R.B. Wright.

Land Officer.

W. C. Hunter Esq.,

Nairobi.

955.F.

The Secretariat.

Nairobi.

December, 17th 1918.

The Hon. Land Officer,
Nairobi

Re: Mr. R.C. Barclay's land.
of the 14th April last.

The enclosed copy of the Colonial
Office despatch is forwarded herewith for favour
of your report.

955.F.
955.
2 encs
11/13

sd/- P. S. THOMAS,

For Chief Secretary.

Note

As the originals of the above
mentioned enclosures are in the
possession of the B.O. they have
not been again copied

sd/- J.S.

27/14

1912/1/1

December

Sir, ...

... of the 1st ...

- (a) ...
- (b) ...
- (c) Letter of ... of 27th January, 1912.
- (d) Your reply of 24th February, 1912.

... further letter of 20th February, 1912 and ... your reply of 14th April, 1912, ...

I think these letters fully cover the case, but if there are any details on which you require further information I shall be pleased to supply them.

I have so.

Signed F. R. Wright, Land Officer.

The Hon. The Chief Secretary, Nairobi.

Note: His Excellency's despatch No. 10 of 7th Jan. 12, Colonial Office Despatch No. 111 of 9th Feb. 12 in reply, C.O. further Despatch No. ... of 5th March 12, and His Excellency's Despatch No. 100 of the 20th May 12 copy etc the correspondence.

1806 L/a.

2th May, 1913.

Sir,

re R.G. Barclay, Application for 10,000
acres, Kipingi.

In reply to your letter of 4th ultimo herein, I would say that His Excellency, Sir Percy Fitzpatrick's ruling was to the effect that further land was not to be allowed as extension to his present land. Once he applied for other land in the neighbourhood it will be remembered he was told the question must await Colonial Office orders governing further method of allotment. It was then thought possible that this would be governed by an allotment board. As you are however, now aware, it has been decided to allot further land by auction, and, under these circumstances, I regret I am unable to register your client's claims for further land elsewhere in substitution for land offered in a particular position only.

I am, Sir,

signed - S.C. Wright,
Land Officer.

W. Hunter, Esq.,
Nairobi.

Madras, 23rd May, 1818.

The Land Officer.

Sir,

H. S. Barclay's Application for Land
near Seringapatam.

I am in receipt of your letter No. 1806 L/18
of the 23rd May last.

My letter of the 24th ultimo, appears to
have been misunderstood. I presume that you are
still prepared to grant to Mr. Barclay land near
or adjoining to his present land in accordance with
His Excellency's (Sir Percy Curwood's) ruling.

I shall be glad to hear from you that this
is the case.

I am, &c.

signed W. C. Hunter.

1895 K/L

27th May, 1912.

Sir,

H.C. Barclay, Application for land
near Kipingo.

With reference to your letter of the 13th instant I beg to inform you that I have placed the case before His Excellency the Governor, who instructs me to say that he is not prepared to consider your application for further land in this neighbourhood.

You were allowed a selection which you relinquished, and your further application, it will be remembered was covered by a previous application.

I have the honour to.

signed R.E. Wright,
Land Officer.

W. C. Hunter, Esq.,

Nairobi.